

REMARKS

I. Status of Claims

After the above amendments, claims 1-5 are pending with claim 1 being independent. A minor claim amendment has been made to include a semi-colon after the word “direction” in the eighth line of the claim. Dependent claim 4 has been amended to better clarify the language used in the claim. Additionally, dependent claim 5 has been newly added. No new matter is added with these amendments. For the reasons described below, the present application is now in condition for allowance and such disposition is earnestly solicited.

II. Claim Objection

Claim 1 has been objected to for missing a semi-colon after the word “direction.” Applicant has amended the claim to include the missing semi-colon. Therefore, since the objection to claim 1 has been resolved, Applicant respectfully requests withdrawal of the claim objection.

III. Rejection of Claims Under 35 U.S.C. §102(e)

Claims 1-3 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 6,826,806 to Eaton et al. (hereinafter “EATON”). Applicant respectfully traverses the rejections based upon the arguments presented below. To be an “anticipation” rejection under 35 U.S.C. §102, the reference must teach each and every feature recited in the Applicant’s claims. Furthermore, rejections under 35 U.S.C. §102 are proper only when the claimed features are identically or inherently disclosed or described in the prior art. In view of the above, Applicant submits that the rejections of claims 1-3 under 35 U.S.C. §102(e) are improper because EATON fails to teach each and every feature recited in the claims.

Starting with independent claim 1, the claim recites:

A clasp that comprises a first part and a second part that
can be joined together to fasten the clasp and that can be separated
from each other to release the clasp, wherein the first and the

second parts are identical to each other, and each of the first and

second parts includes:

- a) a resilient latch with an outwardly facing barb;
- b) a channel for receiving the barb of the other part;
- c) a catch located in the channel for engagement with the barb of the other part when the two parts are pushed together in an axial direction;
- d) a housing containing the channel and extending transversely over the width of the part, the housing having an interface surface extending between the latch and the catch and abutting the corresponding interface surface of the other part when the clasp is fastened, the interface surface extending diagonally with respect to the axial direction such that the interface surface in the region of the catch is located axially behind the interface surface in the region of the barb;

wherein the arrangement of the barb and the catch of each part is such that the barb of each part engages the catch of the other part as the two parts are pushed together to keep the parts together and the latches of the two parts can be moved to release each barb from the catch of the other part and wherein the interface surfaces are arranged to slide over each other to separate the two parts when the barbs are released from the catches. (emphasis added).

With respect to the rejection of claim 1, the Examiner cited EATON's breakaway closure device that is illustrated in drawing figures 4-6 and 8-12. However, Applicant's assert that, at the least, EATON's breakaway closure device fails to teach the above emphasized portions of claim 1. In particular, EATON fails to teach that the interface surface in the region of the catch is located axially behind the interface surface in the region of the barb. By way of a non-limiting example, consider Applicant's drawing figure 1, which has been reproduced below for the Examiner's convenience.

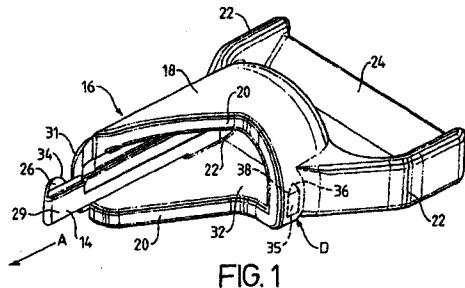


FIG. 1

As can be clearly seen in drawing figure 1, the interface surface 20 in the region of catch 35 is located, along axis A, behind the interface surface 20 in the region of barb 26.

By contrast, EATON includes an opposite arrangement. Consider EATON's drawing figure 12, which has been reproduced below for the Examiner's convenience.

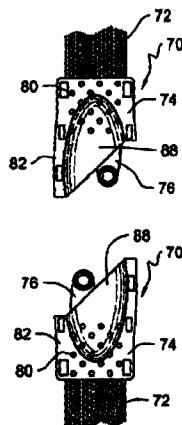


FIG. 12

As can be seen from EATON's drawing figure 12, the surface (defined by the diagonal end surface from which projection 76 projects) in the region of catch 58 is located, along the axis defined by projection 76, ahead of the surface in the region of barb 76. Accordingly, in EATON's teaching, the interface surface in the region of the catch is located axially ahead of the interface surface in the region of the barb instead of behind the interface surface in the region of the barb, as recited in Applicant's claim 1. The Applicant's feature of having the interface surface in the region of the catch being located axially behind the interface surface in the region of the barb is particularly advantageous. By way of a non-limiting example, the Applicant's above recited feature is beneficial in that the arrangement of the diagonal interfaces with respect to the barbs and catches enables a single manipulation of the latch to disengage the barbs from

the catches and cause the two parts of the clasp to move away from each other along the diagonal interfaces so as to become separated. In other words, a single manipulation of the clasp results in a release and separation of the two parts of the clasp. EATON's structurally opposite teaching does not achieve the above benefit. Accordingly, for the reasons presented above, EATON fails to anticipate that the interface surface in the region of the catch is located axially behind the interface surface in the region of the barb.

Furthermore, EATON fails to teach that the interface surfaces are arranged to slide over each other to separate the two parts when the barbs are released from the catches. As discussed above, the Applicant's above recited feature is beneficial in that, by way of example, the same manipulation that causes the two parts of the clasp to be released, causes the two parts to move away from each other along the diagonal interfaces to eventually become separated. In other words, a single manipulation of the clasp results in a release and separation of the two parts of the clasp.

By contrast, EATON's diagonal surfaces of the first and second parts do not slide over each other. Instead, the diagonal surfaces merely pull away or toward each other along an axis defined by projection 76. EATON's device is structured this way because it is a "breakaway" closure device designed to be opened simply by pulling the two parts away from each other with sufficient force. This is important because the clasp is primarily designed for use with a lanyard that is put around a user's neck. The release of the device merely by pulling it apart allows the lanyard to be released if the lanyard is pulled in such a way the user might be strangled. Accordingly, EATON's first and second parts are designed for separation only along the axis defined by projection 76.

Relative movement of EATON's first and second parts to or away from each other does not result in the diagonal surfaces of the first and second parts sliding over each other. This point is made clear when one considers that, EATON's diagonal surfaces are only close enough to slide over each other *when* the two parts of the claps are locked together. However, once the two parts of the claps are locked together, they would be prevented from sliding over each other. Therefore, EATON cannot teach that the interface surfaces are arranged to slide over each other, let alone slide over each other to separate the two parts when the barbs are released from the catches.

Therefore, Applicant respectfully requests withdrawal of the rejection of independent claim 1. Should the Examiner maintain the rejection, it is respectfully requested that the Examiner articulate in detail how EATON anticipates the above emphasized features of claim 1. Since claims 2-5 depend from claim 1, and since EATON does not disclose all of the limitations of claim 1, Applicant submits that claims 2-5 are patentable at least by virtue of their dependency from claim 1.

IV. Rejection of Claims Under 35 U.S.C. §102(e)/§103(a)

Claim 4 stands rejected under 35 U.S.C. §102(e) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over U.S. Patent No. 6,826,806 to Eaton et al. (hereinafter “EATON”). While claim 4 is allowable by virtue of its dependency on independent claim 1, Applicant asserts that claim 4 is further allowable for the reasons presented below.

With respect to the rejection of claim 4, that Examiner has admitted that EATON does not explicitly describe that the latch is moveable with respect to the rest of the housing to release the barb from the catch and open the clasp. Accordingly, because each and every cited feature of the present claim is not expressly described by EATON, the rejection under 35 U.S.C. §102 must fail unless the feature is inherently present in EATON. However, the rejection has not provided any rationale to support a finding of inherency. To support a finding of inherency, it is required to substantiate that the missing descriptive matter is necessarily present in the disclosure of EATON. Instead, the rejection alleges that the arrangement of the latch recited in the claim would have been obvious. This assertion of obviousness is misplaced in an anticipatory rejection. Therefore, the rejection of claim 4 under 35 U.S.C. §102 is improper because EATON fails to teach, implicitly or explicitly, each and every feature recited in Applicant’s claim 4.

Furthermore, the rejection under 35 U.S.C. §103(a) is improper because it fails to set forth a *prima facie* case of obviousness. A *prima facie* case of obviousness requires that there be some suggestion or motivation, either in the reference itself or in knowledge generally available to one of ordinary skill in the art, to modify the reference. While the rejection asserts that “it would have been obvious to one of ordinary skill in the art at the time the invention was made to have recognized...[that] the clasp of Eaton et al. (‘806) [] possess the characteristics of being movable with respect to the rest of the housing to release the barb from the catch and open the

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clasp," the rejection *fails to provide any motivation* for altering EATON, as is required for rejections under § 103.

As stated in MPEP § 2143.01, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). In the complete absence in the record of any motivation whatsoever, the rejection under §103 is improper and must be withdrawn.

Still further, claim 4 has been amended to recite that "the latch forms a side wall of the housing of each of the parts" and that "the latch side wall [is] moveable with respect to the rest of the housing to release the barb from the catch and open the clasp." As can be clearly seen in EATON's drawing figure 12, reproduced above, the protrusion 76 does not form a side wall of the housing of each of the parts. Accordingly, EATON fails to teach each and every feature of claim 4.

Therefore, Applicant respectfully requests withdrawal of the rejection of dependent claim 4. Should the Examiner maintain the rejection, it is respectfully requested that the Examiner articulate in detail how EATON anticipates and/or renders obvious the recited features of claim 4.

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V. Conclusion

In view of the above, it is respectfully submitted that this application and all pending claims are in condition for allowance and notice to that effect is respectfully requested. Should the Examiner have any questions, the Examiner is encouraged to contact the undersigned at the telephone number indicated below.

It is believed that no additional fees are due in connection with filing this amendment. However, the Commissioner is hereby authorized to treat any current or future reply, requiring a petition for an extension of time for its timely submission as incorporating a petition for extension of time for the appropriate length of time. Applicants also authorize the Commissioner to charge any additional fees to the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,

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Raymond B. Persino
Reg. No. 58,082

Hunton & Williams LLP
Intellectual Property Department
1900 K Street, N.W., Suite 1200
Washington, D.C. 20006-1109
Main: (202) 955-1500
Direct: (202) 778-2265